

**REMARKS**

**A. Allowable Subject Matter**

Applicants again appreciate the Examiner's acknowledgment that the subject matter of claims 4, 6, 9, 10, 15, 17, 20, 21, 28, 30, 33 and 34 would be allowable if amended and placed into independent form. However, Applicants submit that these claims as well as their respective independent and intervening claims are allowable without such amendment for at least the following reasons.

**B. The §103 Rejections**

Claims 1-3, 5, 7, 8, 11-14, 16, 18-19, 22-27, 29, 31-32, and 35-36 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of U.S. Patent Publication No. 2020102976 to Newbury et al. ("Newbury") in view of U.S. Patent No. 6,208,863 to Salonaho ("Salonaho"). The Applicants respectfully disagree and traverse these rejections for at least the following reasons.

In the Office Action the Examiner acknowledges that Newbury fails to disclose the feature of adjusting a transmission characteristic threshold in response to the value of a first balancing metric relative to a second balancing metric ("adjustment step"). To make up for this deficiency in Newbury the

Examiner relies upon Salonaho. Applicants do not agree that Salonaho discloses the feature relied upon by Examiner.

Initially, the Applicants note that this is the second time that the Examiner has applied Salonaho as a secondary reference. After applying Salonaho originally, the Examiner then withdrew Salonaho as a reference.

As the Applicants have previously stated, it is not altogether clear (to the Applicants) whether or not Salonaho discloses two balancing metrics or a single one. Assuming, for the purposes of the present argument only, that Salonaho does disclose two balancing metrics it nevertheless does not appear that Salonaho adjusts a transmission characteristic threshold based on a response to the value of a first balancing metric relative to a second balancing metric.

In more detail, Salonaho appears to calculate two values, a service time for mobile stations in a microcell and a pre-set threshold service time, R, for a macrocell. It does not appear to disclose the adjustment of a transmission characteristic threshold in response to the value of the microcell service times with respect to the macrocell threshold R (or vice-versa). Further, it appears that the value R is adjusted based on the load within the macrocell, not based on any comparison of balancing metrics. In this respect, Salonaho appears to be similar to the Chepantier reference previously cited, and now withdrawn, by the Examiner because Chepantier varies a threshold based on a single, cell load value.

In sum, the subject matter of claims 1-3, 5, 7, 8, 11-14, 16, 18, 19, 22-27, 29, 31, 32, 35 and 36 would not have been obvious to one of ordinary skill in the art at the time the present application was filed based on reading the disclosures of Newbury and Salonaho because this combination of references does not disclose or suggest the adjustment of a transmission characteristic threshold based on a response to the value of a first balancing metric relative to a second balancing metric.

Accordingly, the Applicants respectfully request withdrawal of the rejections and allowance of claims 1-3, 5, 7, 8, 11-14, 16, 18, 19, 22-27, 29, 31, 32, 35 and 36.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

**CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.**

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